REMARKS

I. Introduction

Claim 9 has been added, and therefore claims 1-9 are currently pending.

In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 1-5 and 7 Under 35 U.S.C. § 103(a)

Claims 1-5 and 7 have been rejected as being unpatentable under 35 U.S.C. §103(a) over United States Patent No. 5,745,030 to Aaron. Applicant respectfully submits that Aaron does not render obvious the features of claims 1-5 and 7.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

It is initially noted that one of the main features of the present invention is to accomplish detection of a theft or tampering **without requiring the use of sensors specifically dedicated** solely for the purpose of serving a vehicle protection system, instead using sensors that are already present for vehicle monitoring and control during driving situations. (Specification, page 1, line 26 to page 2, line 1). Accordingly, independent claim 1 recites a device for protecting a motor vehicle against theft, comprising, *inter alia*, a sensor for providing at least one sensor signal, a functional unit, and at least one signal processing unit for evaluating the at least one sensor signal in a first operating mode for generating a triggering signal for the functional unit, the at least one signal processing unit evaluating the at least one sensor signal in a second operating mode for generating a triggering signal for an alarm-signal generator, the second operating mode differing from the first operating mode. In

claim 1, the ***same*** at least one sensor signal is used in different processes according to the two different modes: in the first operation mode, when the vehicle is active, the sensor signal is used in generating trigger signals for a functional unit; in the second operating mode, the sensor signal is used in triggering an alarm-signal generator. The specification provides several examples of multiple functions of the sensor signals. For example, a sensor signal indicating the height of a shock absorber may be used in the first operating mode for regulation of the chassis, and the same sensor signal in the second operating mode may indicate a manipulative lifting of the vehicle. (Specification, page 5, line 26 to page 6, line 9). Thus, it can be seen the sensor signal provides data for **normal regulation of the vehicle in the first mode and data for vehicle theft/tamper protection in the second mode**.

It is submitted that Aaron does not disclose or suggest a processing unit that evaluates the at least one sensor signal in both a first operating mode -- for generating a triggering signal for the functional unit, and in a second operating mode -- for generating a triggering signal for an alarm-signal generator. Aaron specifically states that the sensors of the sensor array it employs, such as pressure sensors, infrared sensors, motion detectors, ignition sensors, shift lever position sensors, RPM sensors, etc., **are used in conjunction with other existing vehicle protection systems**. (Aaron, col. 6, lines 5-17). In particular, Aaron indicates that these sensors are used for automatic occupant sensing and for determining whether an occupant is an authorized occupant. (See Aaron, cols. 7 and 8). The Aaron reference specifically states that this occupancy sensing occurs regardless of the activation state of the vehicle, i.e., it occurs whether the vehicle is in an active operating mode or in a deactivated operating mode. (See Aaron, col. 9, lines 31-47). Thus, in contrast to the subject matter of claim 1, Aaron discloses a *continually* operating anti-car-jacking system based on sensors specifically allocated to a vehicle-protection function, which the present invention specifically avoids for the reasons of added costs and maintenance of such an additional sensing and monitoring system.

Accordingly, in addition to the fact noted by the Examiner that Aaron does not disclose an operating-state detection unit, Aaron also does not disclose or suggest a processing unit that evaluates the at least one sensor signal in both a first operating mode for generating a triggering signal for the functional unit and in a second operating mode for generating a triggering signal for an alarm-signal generator, as recited in claim 1. Accordingly, it is respectfully submitted that Aaron does not disclose or suggest each of the elements of

independent claim 1, which is therefore patentable over Aaron. Since claims 2-5 and 7 depend from claim 1, they are likewise patentable over Aaron. Withdrawal of the rejection of claims 1-5 and 7 under 35 U.S.C. 103(a) is therefore respectfully requested.

III. Rejection of Claim 6 Under 35 U.S.C. §103(a)

Claim 6 has been rejected as being unpatentable under 35 U.S.C. §103(a) over Aaron in view of U.S. Patent No. 5,927,112 to Yamashita ("Yamashita"). Applicant respectfully submits that the cited references do not disclose or suggest each of the features of claim 6.

Claim 6 depends from and incorporates the features of independent claim 1. It is submitted that Yamashita does not cure the deficiencies of the primary Aaron reference because Yamashita describes a theft-detection and ignition-prohibiting mechanism, in which the sensor signals are used only in a theft detection mode. Therefore, like the Aaron reference, Yamashita merely discloses that sensors, including an ultrasound, infrared and vibration sensors, are included in a theft-detection system. (See Yamashita, col. 5, lines 1-17). Yamashita does not disclose or suggest that these sensors operate in a distinct first operating mode while the vehicle is activated (during driving), particularly since Yamashita, like Aaron, does not disclose a mechanism for distinguishing between an activated or deactivated state of the vehicle in order to establish operation of two separate operational modes. Thus, Yamashita also discloses a separate, supplemental theft-detection system, rather than a system in which sensors operate in two modes in order to eliminate the necessity of a distinct, supplemental vehicle protection system.

It is therefore submitted that the combination of Aaron and Yamashita fails to disclose or suggest each of the features of independent claim 1, from which claim 6 depends. Withdrawal of the rejection of claim 6 under 35 U.S.C. §103(a) is accordingly requested.

IV. Rejection of Claim 8 Under 35 U.S.C. §103(a)

Claim 8 has been rejected as being unpatentable under 35 U.S.C. §103(a) over Aaron in view of U.S. Patent No. 4,356,489 to Hirota et al. ("Hirota"). Applicant respectfully submits that the cited references do not disclose or suggest each of the features of claim 8.

Claim 8 depends from and incorporates the features of independent claim 1. It is submitted that Hirota, like Aaron, also does not disclose or suggest a processing unit that evaluates the at least one sensor signal in both a first operating mode for generating a

triggering signal for the functional unit and in a second operating mode for generating a triggering signal for an alarm-signal generator.

Moreover, the Examiner is incorrect in asserting that it would have been obvious to modify the teachings of Aaron in view of Hirota in order to detect a surrounding field. It is noted that Hirota merely discloses using a doppler radar unit to emit waves **to the ground** in order to generate a signal representative of vehicle speed. Hirota therefore does not suggest using radar to detect a surrounding field in the front and the back of a vehicle. One skilled in the art would thus not be motivated to combine Aaron and Hirota to arrive at the claimed subject matter. Accordingly, combining these prior art references without evidence of a proper suggestion, teaching, or motivation "simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." In re Dembiczak, 50 U.S.P.Q.2d 1614, 1617 (CA FC 1999). Only by referring to Applicant's own disclosure would one of ordinary skill have the requisite motivation, but since this would amount to hindsight, such a motivation is not a valid basis for a rejection of these claims.

It is accordingly submitted that the combination of Aaron and Hirota fails to disclose or suggest the features of claim 8, which depends on claim 1. Withdrawal of the rejection of claim 8 under 35 U.S.C. §103(a) based on Aaron and Hirota is accordingly requested.

V. New Claim 9

New claim 9 recites a method for protecting a motor vehicle against theft, comprising, *inter alia*, detecting whether the motor vehicle is in a deactivated state or an alarm function has been primed, and if it is detected that the motor vehicle is in a deactivated state or an alarm function has been primed, cyclically obtaining signals from vehicle sensors that are used while the vehicle is activated in driving situations.

For the reasons set forth above in connection with claims 1-8, it is submitted that none of the cited references disclose or suggest the feature of cyclically obtaining signals from vehicle sensors that are used while the vehicle is activated in driving situations, when it is detected that the motor vehicle is in a deactivated state or an alarm function has been primed. It is therefore submitted that claim 9 is in allowable condition.

VI. Conclusion

It is respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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